

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
SBC IP Communications, Inc.)	
Petition for Limited Waiver of)	CC Docket No. 99-200
Section 52.15(g)(2)(i) of the)	DA No. 04-2144
Commission's Rules Regarding Access)	
to Numbering Resources)	
)	

REPLY COMMENTS OF THE MAINE PUBLIC UTILITIES COMMISSION

The Maine Public Utilities Commission (MPUC) submits these Reply Comments regarding SBC IP Communications, Inc.'s (SBC) Petition for Limited Waiver of the Commission's Rules Regarding Numbering Resources (Petition).

Over the past five years, the MPUC has worked very hard, in conjunction with federal regulators and those in other states, as well as with the industry, to ensure the efficient use and conservation of numbering resources. Maine was one of the first states in the nation to implement thousand block pooling and to apply facilities readiness and fill-rate guidelines to applications for new numbering resources. Our efforts have paid off: in 1998 the North American Numbering Plan Administrator (NANPA) informed us that Maine would need a new area code by June 2000; today NANPA conservatively estimates that we will not need a new area code until 2012. Our success, in large part, rests on our diligent monitoring of number resource applications by all types of carriers and enforcement of our facilities readiness requirements, i.e., that the carrier be certified for the particular rate center where it seeks resources and that it be able to provide proof of either facilities in the rate center or of an actual customer in that rate center that will be served through the carrier's facilities.

SBC proposes that it be allowed to by-pass state oversight and deal directly with NANPA when seeking numbers for its VOIP services. The New York Public Service Commission (NYPSC), the Ohio Public Utilities Commission (OPUC), the Pennsylvania Public Utilities Commission (PaPUC), and the Iowa Utilities Board (IUB) all filed comments objecting to the waiver to the extent that it would preclude state commissions from exercising the authority delegated to them from the Federal Communications Commission (FCC) concerning proof of facilities readiness. They also raised a number of important concerns, including:

- the need to enforce state interconnection requirements;
- the need for SBC to participate in both number porting and pooling;
- the waste of resources that will occur in non-pooling areas;
- the need for SBC to follow FCC requirements regarding geographic portability, i.e. to refrain from assigning numbers to customers located outside the rate center; and
- the need for SBC to file NRUF reports.

We support the comments of our fellow state commissions and reiterate the importance of state oversight of numbering resource allocation in our individual states.

Telephone numbers are a precious public resource requiring continued stewardship by regulators, the industry, and consumers. Area code exhaust has cost consumers and businesses millions, if not billions, of dollars over the past ten years. While we do not seek to impede the development of emerging technologies and applications such as VOIP, we firmly believe that if those technologies and applications require the use of a scarce public resource, they must be subject to the same conservation requirements that other users must follow. Granting SBC its requested waiver, without conditioning it upon compliance with state oversight and federal reporting, porting, and pooling requirements, will set a dangerous precedent and could

undo much of the progress that has been made over the past few years. This is particularly the case if, as a number of commenters specifically requested, the Commission expands the applicability of the waiver to all VOIP providers. Such an expansion would surely lead to both inefficient and inappropriate uses of telephone numbers in the short term and, possibly, the exhaust of the NANP in the long term.

We take this opportunity to emphasize three points. First, as pointed out by the Ohio PUC, it is critical that VOIP providers be required to follow FCC requirements regarding geographic portability. One need not go any further than to the Home Page of providers such as Vonage to learn that VOIP providers currently offer phone numbers from State X to consumers located in State Y or Country Z. (See http://www.vonage.com/no_flash/index.php advertising the availability of out-of-state numbers.) Similar problems arose several years ago when companies such as J-Fax offered fax numbers in areas around the country. In order to provide its service, J-Fax would obtain large quantities of numbers from CLECs operating in a particular area. These unforecasted demands caused a number of areas codes around the country to enter jeopardy status prematurely. Nobody will benefit from a repeat of these problems with VOIP providers. Thus, the Commission should explicitly condition any SBC waiver on following current geographic porting limitations.

Our second point, which relates to the first and which both the Ohio PUC and the NYSPC emphasized, is that all service providers must be required to show facilities readiness that meets the state commission's criteria before number resources are allocated. Allowing states to enforce facilities readiness criteria ensures that numbering resources are not hoarded, requested prematurely, or diverted to consumers outside

the rate center. It also ensures that the appropriate interconnection/compensation arrangements have been made between providers and underlying carriers. While we understand there are many unresolved questions concerning state commission jurisdiction and whether VOIP providers must become certified carriers, we believe that criteria other than state certification can and should be applied to VOIP providers.

The Commission should not underestimate the impact of state commission oversight of the numbering resource allocation process. Focusing on reclamation statistics only tells part of the story – the bigger impact is felt (but not seen) when state commissions spot an issue before an assignment is made. This happens on a regular basis even in a state such as Maine, which has a relatively low demand for numbers. Just two months ago we noticed that a carrier's forecasted demand (used to support a request for a full NXX) was drastically higher than its historical demand. When we asked the company to explain the discrepancy, it discovered that its new employee had not taken the appropriate steps to translate raw marketing forecasts into realistic numbering forecasts. The company withdrew the NXX request and instead submitted an application for one block; we saved 9,000 numbers and a full NXX in this one incident alone. Thus, we urge the Commission to condition any waiver to SBC or other VOIP provider on the provider's compliance and cooperation with state facilities requirements and state oversight.

Finally, as the IUB discussed, allowing SBC direct access to numbers in rural areas that do not have pooling will result in a huge waste of numbering resources. In Maine, none of the areas served by independent telephone companies participate in pooling. While the independents account for only 15% of the lines in the state, they

account for 45% of the rate centers. If a VOIP provider decided it wanted numbers in all of the independents' rate centers, the 207 area code would be close to exhaust. If the VOIP provider did not participate in pooling and requested full NXXs in all Maine rate centers, our area code would be completely exhausted. Clearly, neither the industry nor consumers would benefit from such a scenario and regulators (both federal and state) should take all necessary steps to ensure the efficient use of numbering resources so that they continue to be available to all providers. Thus, the Commission should limit any SBC waiver to pooling areas and require SBC to be pooling and porting capable before it obtains any numbers.

New technologies hold the promise of lower prices. It would be ironic, however, if the realization of that promise required consumers to incur significant, unnecessary costs as a result of premature code exhaust. Moreover, some of those costs would fall on consumers who cannot or do not utilize the new technologies, and for them, the result would not just be ironic, it would be downright unfair.

For the reasons discussed above, we respectfully request that the Commission deny the Petition. In the alternative, if the waiver is granted, we request that the Commission explicitly condition the waiver upon SBC's compliance with state facilities

readiness requirements and participation in number portability, thousand block pooling, and all other relevant number conservation measures.

Respectfully,

MAINE PUBLIC UTILITIES COMMISSION

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Maine Public Utilities Commission

Dated: August 30, 2004

CERTIFICATE OF SERVICE

I, Trina M. Bragdon, certify that these Reply Comments of the Maine Public Utilities Commission were filed electronically with the Federal Communications Commission and served via first-class mail to the persons on the attached service list on this date.

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Dated: August 30, 2004

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